

SO ORDERED: April 25, 2019.




Jeffrey J. Graham
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

In re:)
) Case No. 18-09243-JJG-11
SCOTTY'S HOLDINGS, LLC,)
) (Jointly Administered)
)
Debtor(s).¹)

**ORDER (SECOND) AUTHORIZING AND APPROVING REJECTION OF CERTAIN
UNEXPIRED LEASES AND EXECUTORY CONTRACTS**

Upon the second omnibus motion (the "**Motion**"; capitalized terms used but not defined herein shall have the same meanings ascribed to them in the Motion) of the above-captioned debtors and debtors in possession (collectively, the "**Debtors**") for entry of an order (this "**Order**") authorizing and approving the rejection of certain unexpired leases of nonresidential

¹ The Debtors include Scotty's Holdings, LLC, Case No. 18-09243-JJG-11; A Pots & Pans Production, LLC, Case No. 18-09244-JJG-11; Scotty's Thr3e Wise Men Brewing Company, LLC, Case No. 18-09245-JJG-11; Scotty's Brewhouse, LLC, Case No. 18-09246-JJG-11; Scotty's Brewhouse Bloomington, LLC, Case No. 18-09248-JJG-11; Scotty's Brewhouse West Lafayette, LLC, Case No. 18-09250-JJG-11; Scotty's Indianapolis, LLC, Case No. 18-09251-JJG-11; Scotty's Brewhouse Downtown Indianapolis, LLC, Case No. 18-09252-JJG-11; Scotty's Brewhouse Mishawaka, LLC, Case No. 18-09253-JJG-11; Scotty's Brewhouse Fort Wayne, LLC, Case No. 18-09255-JJG-11; Scotty's Brewhouse Carmel, LLC, Case No. 18-09256-JJG-11; Scotty's Brewhouse Butler, LLC, Case No. 18-09257-JJG-11; and Scotty's Brewhouse Waco, LLC, Case No. 18-09258-JJG-11.

real property and certain executory contracts; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and S.D.Ind. L.R. 83-8(a) of the United States District Court for the Southern District of Indiana; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and this Court being able to issue a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Motion in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court finding that notice of the Motion and of the hearing thereon has been provided consistent with the case management procedures previously approved by the Court; and this Court having found that the relief requested by the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and after due deliberation thereon; and sufficient cause appearing therefor, it is hereby;

ORDERED that the Motion is granted as provided herein; and it is further

ORDERED that, pursuant to 11 U.S.C. § 365, each of the Rejected Leases set forth on Exhibit A to this Order is rejected as of the later of (a) April 24, 2019 and (b) the date the relevant premises is surrendered to the lessor thereof (as to each Rejected Lease, the "**Effective Lease Rejection Date**"). On the Effective Lease Rejection Date, the relevant Debtor will turn over any keys, alarm or other security codes, and anything else the relevant landlord may need to obtain access to the premises; and it is further

ORDERED that the Rejected Contracts set forth on Exhibit A to this Order are rejected, as to each, as of the date set forth on Exhibit A to this Order for each such Rejected Contract (as to each Rejected Contract, the "Effective Contract Rejection Date"), and it is further

ORDERED, pursuant to sections 105(a) and 554(a) of the Code and Fed. R. Bankr. P. 6007, that any personal property remaining in any premises subject to the Rejected Leases is

abandoned by the Debtors as of the Effective Lease Rejection Date, subject, however, to the interests of any third parties, and without waiver of any claim the relevant landlord may have against the Debtors for the disposal of personal property so abandoned under the Code; and it is further

ORDERED that any claim related to a Rejected Lease or Rejected Contract set forth on Exhibit A to this Order must be filed on or before **May 31, 2019** or be forever barred; and it is further

ORDERED that nothing in this Order shall affect the following rights, all of which are fully reserved: (a) the rights of any counter-party under a Rejected Lease or Rejected Contract to assert any claims – including, without limitation, claims asserted to be entitled to administrative priority status – against the Debtors or their estates and (b) the rights of the Debtors to oppose any such claims on any basis; and it is further

ORDERED that, notwithstanding the relief granted in this Order and any actions taken pursuant to such relief, nothing in this Order shall be deemed: (a) an admission as to the validity of any claim against a Debtor or the priority of such claim; (b) a waiver of the Debtors' right to dispute any claim on any grounds; (c) a promise or requirement to pay any claim; (d) an implication or admission that any particular claim is of a type specified or defined in this Order or the Motion, or (e) a waiver of the Debtors' rights under the Code or any other applicable law; and it is further

ORDERED that all time periods set forth in this Order shall be calculated in accordance with Fed. R. Bankr. P. 9006(a); and it is further

ORDERED that notwithstanding anything to the contrary, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry; and it is further

ORDERED that the Debtors and their agents are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion; and it is further

ORDERED that all counterparties to the Rejected Leases and Rejected Contracts are hereby enjoined from taking any action inconsistent with this Order.

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EXHIBIT A to SECOND OMNIBUS REJECTION ORDER**Rejected Nonresidential Real Property Leases***(alphabetically by landlord)***EFFECTIVE LEASE REJECTION DATE:** the later of (a) April 24, 2019 and

(b) the date the relevant premises is surrendered to the landlord

<u>Landlord</u>	<u>Debtor party</u>	<u>Lease</u>	<u>Address of Premises</u>
<p>Precedent Countryside Acquisitions, LLC Attn: General Manager SCP Management, LLC 9449 Priority Way West Drive Suite 105 Indianapolis, IN 46240</p> <p><i>and</i></p> <p>c/o RPO Property Management 2929 Arch Street, 28th Floor Philadelphia, PA 19104-2868</p> <p>Jeffrey A. Hokanson Ice Miller LLP One American Square, Ste. 2900 Indianapolis, IN 46282-0200 jeff.hokanson@icemiller.com</p> <p>John C. Cannizzaro Ice Miller LLP 250 West Street, Suite 700 Columbus, OH 43215-7509 john.cannizzaro@icemiller.com</p>	Scotty's Indianapolis, LLC	Lease Agreement dated as of March, 2006 with PP Indianapolis III Project Corporation and any and all amendments, modifications, addendums, or revisions thereto, including, without limitation, the First Amendment To Lease dated March 12, 2015	3905 East 96th Street Indianapolis, IN 46240

<u>Landlord</u>	<u>Debtor party</u>	<u>Lease</u>	<u>Address of Premises</u>
The Retail Center At Precedent Park, L.P. 12220 N. Meridian Street Suite 155 Carmel, IN 46032 <i>and</i> E. Davis Coots Coots, Henke & Wheeler 255 E. Carmel Drive Carmel, IN 46032-2689	A Pots & Pans Production, LLC	Lease Agreement dated August 9, 2011 with The Retail Center At Precedent Park, L.P. and any and all amendments, modifications, addendums, or revisions thereto	3855 E. 96th Street Suites H, I, J, and K Indianapolis, IN 46240

[Continued on next page with "Rejected Contracts"]

Rejected Contracts
(alphabetically by counter-party)

<u>Counter-party</u>	<u>Debtor party</u>	<u>Contract</u>	<u>Effective Contract Rejection Date</u>
Alliance Funding Group 3745 W. Chapman Ave., Suite 200 Orange, CA 92868 FAX: (800) 257-0395 Phone: (800) 978-8817	Scotty's Holdings, LLC	(i) Lease Agreement (without a lease number) for certain restaurant equipment, including beer system, dated November 22, 2017 and any and all amendments, modifications, addendums, schedules, or revisions thereto (ii) Master Lease Agreement No. 17-8835 for certain restaurant equipment, dated November 22, 2017 and any and all amendments, modifications, addendums, schedules, or revisions thereto, including Schedule No. 01 and <i>Authorization Agreement for Pre-Authorized Payments</i>	December 31, 2018
Aramark Uniform Services (a division of ARAMARK Uniform & Career Apparel, LLC) 115 North First Street Burbank, CA 91502 Eric Schamp, COO Fax: (502) 635-8796	A Pots & Pans Production, LLC <i>[Agreement covers the following locations: Bloomington, IN; Fort Wayne, IN; Mishawaka, IN; West Lafayette, IN, and Waco, TX]</i>	Service Agreement dated December 29, 2017 and any and all amendments, modifications, addendums, or revisions thereto	April 24, 2019

<u>Counter-party</u>	<u>Debtor party</u>	<u>Contract</u>	<u>Effective Contract Rejection Date</u>
Bigart Ecosystems, LLC d/b/a Wisetail 212 S. Wallace, Suite B2 Bozeman, MT 59715 Attn: Ali Knapp, President	A Pots & Pans Production, LLC	Wisetail Application Services Agreement (ASA) entered into December 28, 2017 and any and all amendments, modifications, addendums, or revisions thereto	April 24, 2019
Brewers Supply Group, Inc., d/b/a "BSG CraftBrewing" 800 West 1st Ave. Shakopee, MN 55379 Attn: Ian Ward, President iward@bsgcraft.com Chris German cgerman@bsgcraftbrewing.com	Scotty's Thr3e Wise Men Brewing Company, LLC	(i) Malt Agreement dated February 17, 2016 and any and all amendments, modifications, addendums, or revisions thereto (ii) Annual Supply Agreement with effective date of March 17, 2017 and any and all amendments, modifications, addendums, or revisions thereto	April 24, 2019
Hitachi Capital America Corp. 7808 Creekridge Circle, Suite 250 Edina, MN 55439 <i>(as purported successor in interest to certain lease interests of Alliance Funding Group)</i> c/o Jacob B. Sellers, Esq. Bernick Lifson, P.A. 5500 Wayzata Blvd., Suite 1200 The Colonnade Minneapolis, MN 55416 FAX: (763) 546-1003 Phone: (763) 546-7542 jsellers@bernicklifson.com	Scotty's Holdings, LLC	Master Lease Agreement No. 17-8835 for certain restaurant equipment, dated November 22, 2017 and any and all amendments, modifications, addendums, schedules, or revisions thereto, including Schedule No. 01	December 31, 2018

<u>Counter-party</u>	<u>Debtor party</u>	<u>Contract</u>	<u>Effective Contract Rejection Date</u>
Mojo Media Labs, Inc. (f/k/a SpinWeb Internet Media, Inc.) SEE BELOW FOR "SpinWeb Internet Media, Inc."	Scotty's Holdings, LLC		
Right On Interactive, LLC Attn: Tom Long 6075 Lakeside Blvd. Suite 201 Indianapolis, IN 46278 accounting@rightoninteractive.com	A Pots & Pans Production, LLC	Master Agreement for database services and any and all amendments, modifications, addendums, or revisions thereto and any order forms associated therewith	April 24, 2019
SpinWeb Internet Media, Inc. (n/k/a Mojo Media Labs, Inc.) 8500 Keystone Xing, Suite 420 Indianapolis, IN 46240	Scotty's Holdings, LLC	Website Design, Development, and/or Marketing Services Agreement effective as of April 30, 2015 and any and all amendments, modifications, addendums, or revisions thereto	April 24, 2019
S.S. Steiner Inc. 655 Madison Avenue New York, NY 10065-8078 Attn: Doug Wilson FAX: (212) 593-4238 Phone: (212) 838-8900 dwilson@hopsteiner.com	Scotty's Thr3e Wise Men Brewing Company, LLC	(i) Steiner Hop Pellet Offer - Rev 1 dated April 21, 2016 and any and all amendments, modifications, addendums, or revisions thereto (ii) Crop 2017-2019 Contract Modification Proposal dated April 24, 2018 and any and all amendments, modifications, addendums, or revisions thereto	April 24, 2019

<u>Counter-party</u>	<u>Debtor party</u>	<u>Contract</u>	<u>Effective Contract Rejection Date</u>
Universal Linen Service 1807 Commerce Road Louisville, KY 40208 Eric Schamp, COO Fax: (502) 635-8796	Scotty's Brewhouse, LLC <i>[Muncie, IN location]</i>	Service Agreement dated August 24, 2017 and any and all amendments, modifications, addendums, or revisions thereto	April 24, 2019
Universal Linen Service 1807 Commerce Road Louisville, KY 40208 Eric Schamp, COO Fax: (502) 635-8796	Scotty's Brewhouse Butler, LLC	Service Agreement and any and all amendments, modifications, addendums, or revisions thereto	April 24, 2019
Universal Linen Service 1807 Commerce Road Louisville, KY 40208 Eric Schamp, COO Fax: (502) 635-8796	Scotty's Brewhouse Carmel, LLC	Service Agreement dated August 24, 2017 and any and all amendments, modifications, addendums, or revisions thereto	April 24, 2019
Universal Linen Service 1807 Commerce Road Louisville, KY 40208 Eric Schamp, COO Fax: (502) 635-8796	Scotty's Brewhouse Downtown Indianapolis, LLC	Service Agreement dated September 13, 2017 and any and all amendments, modifications, addendums, or revisions thereto	April 24, 2019
Universal Linen Service 1807 Commerce Road Louisville, KY 40208 Eric Schamp, COO Fax: (502) 635-8796	Scotty's Indianapolis, LLC <i>[96th Street location]</i>	Service Agreement dated August 24, 2017 and any and all amendments, modifications, addendums, or revisions thereto	April 24, 2019

<u>Counter-party</u>	<u>Debtor party</u>	<u>Contract</u>	<u>Effective Contract Rejection Date</u>
Universal Linen Service 1807 Commerce Road Louisville, KY 40208 Eric Schamp, COO Fax: (502) 635-8796	Scotty's Thr3e Wise Men Brewing Company, LLC	Service Agreement dated August 24, 2017 and any and all amendments, modifications, addendums, or revisions thereto	April 24, 2019
Wisetail LMS (a/k/a Bigart Ecosystems, LLC) SEE ABOVE FOR "Bigart Ecosystems, LLC"			
YCH Hops (a/k/a Yakima Chief – Hopunion, LLC) 203 Division Street Yakima, WA 98902 Scott Eschbach, CFO FAX: (800) 952-4874 Phone: (800) 952-4873	Scotty's Thr3e Wise Men Brewing Company, LLC	Contract dated May 11, 2017 for Customer Number THR019 and any and all amendments, modifications, addendums, or revisions thereto	April 24, 2019